

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

TIMOTHY C. LEWIS,)	
)	No. CV-09-0078-JPH
Plaintiff,)	
)	ORDER GRANTING DEFENDANT'S
v.)	MOTION FOR SENTENCE SIX
)	REMAND
MICHAEL J. ASTRUE,)	(Ct. Rec. 9)
Commissioner of Social)	
Security,)	
)	
Defendant.)	

On May 21, 2009, defendant filed a motion for remand of this case pursuant to sentence six of 42 U.S.C. § 405(g). (**Ct. Rec. 9**). The parties have filed a consent to proceed before a magistrate judge. (Ct. Rec. 8).

Defendant is correct that the cited provision allows the court, on motion of the Commissioner for good cause shown and before filing an answer, to remand the case to the Commissioner for further action by the Commissioner. In sentence six remands, the court retains jurisdiction over the action pending further administrative development of the record. The Commissioner asserts the recording of an administrative hearing on June 8, 2008, cannot be located. (Ct. Rec. 10 at 2.) As noted by

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FOR SENTENCE SIX REMAND - 1

1 defendant, if the recording cannot be located, the Appeals Council
2 will remand the case to the administrative law judge for a *de novo*
3 hearing.

4 After considering the motion,

5 **IT IS ORDERED** that the defendant's motion for a sentence-six
6 remand (**Ct. Rec. 9**) is **GRANTED**. In the above-captioned case,
7 defendant will continue attempting to locate the recording of the
8 June 8, 2008, administrative hearing. If the record cannot be
9 located by **July 31, 2009**,

10 **IT IS FURTHER ORDERED** that the Appeals Council remand the
11 case to an Administrative Law Judge to conduct a *de novo* hearing.
12 The Court will retain jurisdiction over the case.

13 **IT IS FURTHER ORDERED** that in the event the *de novo* hearing
14 is unfavorable to plaintiff, he may seek judicial review by
15 reinstating this case rather than by filing a new complaint.

16 This remand is pursuant to sentence six of 42 U.S.C. §
17 405(g), prior to defendant filing his answer and for good cause
18 shown.

19 **IT IS SO ORDERED.**

20 **DATED** this 26th day of May, 2009.

21 s/James P. Hutton

22 JAMES P. HUTTON
23 UNITED STATES MAGISTRATE JUDGE
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